FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5864 OF 2005

Office notes, office Memoranda of appearances, Court's orders or directions & Registrar's orders.	: Coram, : : : :	Court's or Judge's Orders .

Mr. S. V. Sadavarte for petitioner

Mr. J.S. Deo for R

CORAM: SMT. RANJANA DESAI, J.
26/9/2005

P.C.:-

In this writ petition the petitioner original defendant 1 has challenged order dated 20/7/05 passed by the Civil Judge, Junior Diviosn, Pune on application dated 7/6/05. By the impugned order the application filed by the plaintiff is granted and legal representatives of deceased defendant 2 are allowed to be brought on record.

2. I have heard Mr. Sadavarte learned counsel appearing for the petitioner. He contended that

defendant 2 died on 2/9/04. The plaintiff was intimated about the death by the petitioner on 30/11/04. However, the application to bring heirs of defendant 2 on record came to be filed after a delay of about seven months. He submitted that the learned judge has granted the application without condoning the delay.

3. In my opinion the impugned order does not merit any interference in my writ jurisdiction. In the interest of justice defendant 2's heirs must be brought on record. However, in the facts and circumstances ofthe case plaintiff will have to be saddled with costs. Hence the following order:-

a) Delay in filing application for bringing heirs of defendant 2 on record is condoned. Order passed by the Civil Judge Junior Diviosn, Pune permitting the legal heirs of defendant 2 to be brought on record is confirmed. However, the plaintiff shall pay costs quantified at

Rs.1000/- to the petitioner within three months from today. Payment of cost is condition precedent.

b) Writ petition is disposed of.

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